



PATENT
Attorney Docket No. 101.0052-01000
Customer No. 22882
Express Mail Label No. EQ071214772US

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Confirmation No.: 9192
Gary Karlin Michelson)
Serial No.: 09/412,082) Group Art Unit: 3764
Filed: October 4, 1999) Examiner: Michael Brown
For: METHOD FOR INSERTING)
FRUSTO-CONICAL INTERBODY)
SPINAL FUSION IMPLANTS)

MS PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

Applicant hereby petitions for revival of this application

1. Petition Fee
☐ Small entity – fee \$_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
☒ Other than small entity – fee \$1,500.00 (37 CFR 1.17(m)).
2. Reply and/or fee
 - A. The reply and/or fee to the above-noted Office action in the form of a Request for Continued Examination (RCE) and Information Disclosure Statement with Form PTO-1449 and 23 documents:
☐ has been filed previously on _____.
☒ is enclosed herewith.
 - B. The issue fee of \$_____:
☐ has been paid previously on _____.
☐ is enclosed herewith.

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3. Terminal disclaimer with disclaimer fee
- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith.
4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.
- a. On April 10, 2001, an Office Action was mailed by the U.S. Patent & Trademark Office ("the Office") to our firm.
 - b. On April 12, 2001, the Office Action was mistakenly identified and entered into our docketing system as a "Second Office Action" instead of a "Final Office Action" (see Exhibit A).
 - c. On June 29, 2001, Applicant filed a Reply to Office Action under 37 C.F.R. § 1.111 and a terminal disclaimer to place the application in condition for allowance.
 - d. On July 30, 2004, Applicant filed a status inquiry.
 - e. On September 10, 2004, Applicant filed an Amendment and Request for Interference Under 37 C.F.R. § 1.604.
 - f. On April 7, 2005, almost 4 years after the last communication from the Examiner, we received a Notice of Abandonment having a mail date of April 5, 2005.
 - g. On April 11, 2005, Applicant filed a Petition Under 37 C.F.R. § 1.181 for Withdrawal of Improper Notice of Abandonment with copies of various previously filed documents and a Declaration of Thomas H. Martin.
 - h. On October 7, 2005, Applicant filed another status inquiry.
 - i. On March 10, 2006, Applicant received the decision denying the Petition Under 37 C.F.R. § 1.181.
 - j. The error in responding to the April 10, 2001 Office Action as a non-final action was unintentional. At no time was there any intention to abandon this application as evidenced by the subsequent submissions

of record. Therefore, together with this Petition is being submitted the proper petition fee under 37 C.F.R. § 1.17(m).


I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

If there are any other fees due in connection with the filing of this response, including any fees required for an extension of time under 37 CFR § 1.136, such an extension is requested, and the Commissioner is authorized to charge any related fees to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: March 23, 2006

By: 
Thomas H. Martin
Registration No. 34,383

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EXHIBIT A

CASE PRINT
Report Run: 20MR2006

Docket Number Type	Country Filing No. Status	Case Type	Relation Type	Filing
101.0052-01000 CASE	United States FILED	REGULAR CASE TYPE	CONTINUATION	NATIONAL

<<<<<<< PARTY INFORMATION >>>>>>>
>>>>>>>

<<<<<<< IMPORTANT DATES/NUMBERS
>>>>>>> <<<< SYSTEM GENERATED DATES >>>>

Client/Division: KARLIN TECHNOLOGY, INC.
09/412082 Tax Base Date:
Agent:
No: Next Tax Date:
Attorney: Martin & Ferraro, LLP
No: Expires:
Current Owner: GARY KARLIN MICHELSON, M.D.
Operating Group:
Associate:
Previous Owner:

Application Date:04OC1999 Application No:
Grant Date: Patent
Publication Date: Publication
Parent Filing Date:07JE1995 Parent No: 08/480904
Parent Grant Date: Parent Cty:United States
Total Claims:000000000 Ind. Claims:000000000
Create Date:04FE2000 Update Date:10MR2006
Updated By:TMM

<<<<<<< TITLE>>>>>>>

Method for Inserting Spinal Fusion Implants

<<<<<<< INVENTORINFORMATION >>>>>>>

Inventor Assigned
Gary K. Michelson
Action ma
action
inquiry due
response file
filed
w/d abn f
FILED

<<<<<<<<<< ACTION INFORMATION >>>>>>>>>

Due Date	Taken	Deadline	Completed	Action
01AU2000			01AU2000	1st Office
10AP2001			10AP2001	Second offic
08AP2006				Status
			29JE2001	2nd OA
			15FE2001	IDS Filed
			01FE2001	1st OA resp
			13AP2000	IDS Filed
			11AP2005	Request to
			10SE2004	AMENDMENT

<<<<<<<< DESCRIPTION >>>>>>>>>

<<<<<<<< USER DEFINED TEXT>>>>>>>>>